

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

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In the Matter of:  
Clarksville Post Office  
Clarksville, New York

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Docket No. A2011-81

PETITIONERS' REPLY BRIEF  
(NOVEMBER 29, 2011)

Petitioners have previously filed a Petition to review the determination of the United States Postal Service ("USPS") to close the Clarksville Post Office (Docket No. 1358213-12041). This Petition was filed on September 21, 2011, and was subsequently supported by a Brief ("Petitioners' Main Brief") dated October 25, 2011. The United States Postal Service has submitted Comments ("USPS Comments") regarding this appeal, dated November 15, 2011, and this Reply Brief is submitted in response to the comments of the USPS.

Introduction and Summary

Petitioners maintain that the USPS Comments consist, for the most part, of conclusory statements not supported by the record, and that the USPS has failed to respond to several critical issues raised by the appeal. The record in this case does not support the determination of the USPS to close the Clarksville Post Office, because the USPS has failed to consider the impacts of the closing upon the Clarksville community and has failed to demonstrate that the USPS will actually save any money as a result of the closing. Even if the USPS could demonstrate any financial savings from the closing

of the Clarksville Post Office, the USPS has not offered any justification for the proposed closing other than the alleged failure of the post office to be self-sustaining, and a closing solely for that reason violates the plain statutory mandate of 39 U.S.C. § 101 (b) and 404 (d) (4).

# **1. The record demonstrates that the USPS has failed to consider the impact of closing the Clarksville Post Office**

Petitioners' Main Brief described the impacts of the closure upon the Clarksville community. Petitioners described the numerous businesses in Clarksville, the growth in the community, the impact of the closure on community growth, the failure to consider particular impacts upon individuals and organizations who rely upon secure post offices, and the significant economic costs that will be incurred as a result of the closure. The USPS, in its two-page response, claims to have “extensively considered... the effect of the closing of the Clarksville Post Office upon the Clarksville community, as reflected in the administrative record” (USPS Comments, p.12). This conclusory statement simply belies the sparse administrative record, which indicates that the USPS gave, at most, extremely cursory treatment to the impacts of the closing.<sup>1</sup> Not only does the USPS fail to consider the relevant issues in the record, it has failed, in its comments, to address the issues before this Commission, and has failed to respond to the specific issues that Petitioners have raised.

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<sup>1</sup> At three other places in their Comments, the USPS makes a conclusory statement that it actually considered the issues raised during the review process (see p.1 "as reflected in the administrative record of this proceeding, the Postal Service gave these issues serious consideration," p.3 "all issues raised by the customers of the Clarksville Post Office were considered and properly addressed by the Postal Service," and p.6 "the Postal Service has considered the impact of closing the Clarksville Post Office..." However, saying it does not make it true. The USPS cannot and does not provide citations to the record where relevant issues were considered.

a. **The failure to acknowledge existing businesses and community growth**

As described in Petitioners' Main Brief, the USPS initially identified eight businesses in the Clarksville area at the outset of its public review process. During the review process, 11 additional businesses or civic organizations submitted formal comments or signed the community meeting roster (Petitioners' Main Brief, p.6, n.2, lists these businesses and provides citations to their comments in the record). There are at least three other businesses in Clarksville, two of which have been established in the last three years, that did not submit comments (see Petitioners' Main Brief, pps.6-7).

In addition, several commenters, including at least two businesses, one not-for-profit organization and one individual described the importance of the Post Office for the growth of the community (Petitioners' Main Brief, pps.8-9). Nevertheless, the USPS, in compiling the administrative record, did not respond to the concerns raised during the review process, and instead dismissed these concerns in its Final Determination by merely stating, inaccurately and without citing any facts adduced in the review process that "it was determined that there has been minimal growth in the area in recent years" (AR item 47, p.7, quoted in Petitioners' Main Brief at p.8).

The USPS ignores the effect upon businesses and community growth in the relevant portion of its comments, and merely states, in a footnote, that it identified businesses that maintain post office boxes at the post office, and listed them both in its proposal to close the post office and in its Final Determination. (USPS Comments, p.8, n.13). However, the USPS does not respond to perhaps the most damning allegation in Petitioners' Main Brief: the failure of the USPS to update its initial assessment to reflect the fact that additional businesses were identified during the public review process.

If the USPS had conducted an honest review, and had carefully and fairly considered the input and information that it received from the community, it would have acknowledged that, as part of the review process, the business community in Clarksville was far larger than it had realized when it made its original proposal, and would have responded to the concerns raised by that business community. The USPS did not even make a pro forma attempt to acknowledge public input by recognizing that such a community even existed. Instead, the USPS merely proceeded to make the "Final Determination" that it had contemplated in its original proposal, without acknowledging that it had received additional information.

This case is similar to the case of the Innis, La. Post Office, where the Commission recently noted “Petitioners have presented a number of arguments and cited to facts, which, if true, call into serious question whether the Postal Service’s assessment of whether Innis has been growing and can be expected to continue to grow. The survey relied upon by the Postal Service contains only conclusory statements and, contrary to the instructions on the form itself, fails to provide sources of support for those conclusory statements” (Remand Order 974, Innis Post Office, Docket No. A2011-34, p.9).

**b. The USPS failed to acknowledge the impact of the closing of the  
Clarksville Post Office**

Petitioners' Main Brief described the significant economic hardship that will result from the necessity of traveling an additional 5 miles one way to another post office. The hardship associated with this additional travel was documented by a number of individuals who submitted comments during the review process. Commenters frequently

noted the need to travel, in inclement weather, on rural roads, to get to the Feura Bush Post Office. The issues and concerns raised by these individuals were largely ignored by the USPS during the review process. Instead, the USPS apparently assumed, without offering any justification in the record, that individuals would simply accept rural delivery as an alternative.

Petitioners' Main Brief systematically addressed the concerns raised by the commenters about travel to Feura Bush (Petitioners' Main Brief, pps.10-12). Petitioners estimated the annual cost per boxholder that would result from the closing of the Clarksville Post Office at \$1375. The Petition estimated that 100 boxholders would purchase new box post office boxes at Feura Bush, and the total cost to the community of \$137,500 (Petition, § 62), plus the additional economic, social and environmental costs associated with the additional miles driven.

The USPS Comments, like the Final Determination, completely ignore the significant economic impacts upon the community. If these issues were considered at all, let alone "extensively considered" in the Administrative Record, the USPS has the responsibility of directing the Commission, as well as Petitioners, to the place in the record where these issues were allegedly considered. The USPS cannot and does not do so. It should be noted, as Petitioners pointed out in their Main Brief, that the USPS apparently assumes that only 178 of the existing boxholders will choose rural delivery, indicating that 36 current boxholders will presumably purchase a box at some other location, such as Feura Bush.<sup>2</sup>

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<sup>2</sup> See Petitioners' Main Brief, pps. 11-12, discussing AR item 17, the USPS financial analysis. The USPS does not offer, in item 17, in its Final Determination, or in its Comments, any explanation of how it concluded that 178 existing boxholders will choose rural delivery. The calculations underlying this assumption, if any, should have been publicly disclosed, and subject to public review and comment as part

Petitioners' Main Brief discussed the importance of maintaining community identity by keeping the name "Clarksville" in the postal address (Petitioners' Main Brief, p.7). The USPS acknowledged this concern, and states that customers who obtain boxes at Feura Bush will be able to keep their Clarksville address (USPS Comments, p.8). Nevertheless, the USPS acknowledges that customers who accept rural delivery or open post office boxes at other locations will be required to change their addresses (USPS Comments, p.9). The USPS estimate of 178 new rural delivery customers indicates that the USPS believes that Clarksville postal addresses will be retained by no more than 36 existing customers.

**c. The USPS ignored other concerns raised by commenters**

There were a number of specific problems identified in the review process, particularly in the questionnaires that were distributed by the USPS and that were returned by community residents. Senior citizens noted the problems associated with receiving medication in the mail, both individuals and businesses raised questions about the security of mail in outside mailboxes, and the local volunteer fire company noted the legal problems associated with the need to formally amend its Certificate of Incorporation as a result of its changed address. In addition, a number of entities, particularly business and civic organizations, noted the difficulties associated with the loss of a post office where bulky materials, mass mailings and certified mail could be sent.

These concerns were largely ignored in the USPS "review" of the record, in the Final Determination, and continue to be ignored in the USPS Comments responding to

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of the review process. Nevertheless, even today, the USPS does not offer any explanation of how it derived the 178 box figure (see also p.11 below).

Petitioners' Main Brief. For example, the USPS responded to the concerns regarding mailbox security by stating that there have not been any reports of mail theft or vandalism in the area and that customers can place a lock on their mailboxes. (USPS Comments, p.7). Of course, people who have mailboxes at the post office do not receive rural delivery and do not have mailboxes that are at risk of theft and vandalism in the first place. The risk of vandalism and theft only arises when mailboxes are placed in remote locations.

It should be obvious that it is unrealistic to expect that a lock could provide adequate security for a mailbox, located on a rural road in a sparsely populated area. Locks can easily be broken. A lock may provide some protection in a densely populated urban area where someone determined to steal or vandalize a mailbox might be deterred by the danger of discovery. However, a would-be criminal can easily damage, destroy or even simply appropriate a mailbox located in a deserted country setting. The USPS itself notes that one of the methods of designing mailboxes to avoid damage by snowplows is by placing them on a long swinging horizontal pipe (USPS Comments, p.10). Mailboxes placed on such a pipe are easily vandalized and can also be easily stolen.

The USPS Comments spend several pages addressing an issue which was not the main thrust of Petitioners' comments: the alleged ability of route carriers to fully replace the services of a post office. However, even the USPS acknowledges that delivery times may not be consistent (USPS Comments, pps.10-11) and it is by no means clear, as the USPS claims, that the rural carrier can routinely provide necessary special services for accountable mail (USPS Comments, p.8) or that senior citizens and other individuals who need special provisions, can and will be accommodated by the new system of rural

carriers. Again, the USPS Comments address these issues in conclusory fashion, identifying the problems without stating how they are going to be addressed. The USPS did not give more than give more than the most cursory lip service to these issues in the Final Determination. Nevertheless, the fact that the USPS addresses issues that were of relatively minor concern while ignoring the issues that were actually raised indicates, as Petitioners allege, that the USPS simply offered a one-size-fits-all review statement, rather than even acknowledge, let alone respond to, community concerns.

**d. The USPS ignored the comments from the community**

By statute and regulation, the USPS is required to obtain public comment before it implements a final determination to close a post office. While the USPS went through the motions of distributing questionnaires and conducting a public meeting, Petitioners maintain that the public comments were systematically ignored. Petitioners' Main Brief referred to the fact that a total of 114 questionnaires were returned showing a strong community opposition to the closure, and that the USPS' characterization of these questionnaires grossly understated the extent of the community opposition to the closing (Petitioners' Main Brief, pps.12-13). The USPS Comments acknowledged that "the record in this proceeding is very extensive" because of the number of returned surveys, but claimed that the number of surveys justified the USPS "failure to make an independent inquiry" (USPS Comments, p.4, n.7). The USPS position is illogical; a high number of returned surveys show community concerns and make it more, not less, important for the USPS to investigate.



The USPS also discounts the criticism of the proposed closing by stating that "the surveys are intended to assess usage patterns and customer needs. They are not intended to accomplish any particular outcome. Moreover, the categorization of opposition support or neutrality of the survey is not, in and of itself, dispositive" (USPS Comments p.4, n.6). The comments should have been used as an opportunity to obtain information from the community, and the information should have been considered by the USPS in making its Final Determination. However, the USPS simply ignored the comments that it received. The USPS is now trying to justify ignoring these comments by characterizing them as an exercise to accumulate data to justify a preordained determination to close the post office.

## **2. The USPS has failed to demonstrate that the closure of the Clarksville Post Office will result in economic savings**

Petitioners' Main Brief raised three issues with respect to the USPS' financial analysis of the economic savings that would allegedly be realized by the closure of the Clarksville Post Office: 1) the failure to include the revenue loss from the rental of post office boxes, 2) the failure to account for additional miles driven by rural route carriers and 3) the overstatement of the savings attributable to the elimination of one employee position. The USPS Comments confirm Petitioners' allegations that the USPS did not consider these issues in reaching its determination to close the Clarksville Post Office. Furthermore, the USPS has not responded to Petitioners' arguments in its Comments; instead, the USPS has simply relied upon conclusions based upon its "broad experience" or "typical experience" to justify its determination (USPS Comments, pps.14, 16). The

Commission recently noted that "the economic study should have included a more accurate analysis of the additional cost for all delivery to the customers affected" and that the USPS should have "incorporate[d]" costs for delivery service and estimates for the loss of post office box rent and the cost of carrier delivery (Remand Order No. 974, Innis Post Office, Docket No. A2011-34, p.12).

The record is silent as to the amount of post office box rental at the Clarksville Post Office. Petitioners' Main Brief provides an estimate, based on the conservative assumption that all of the 214 boxes rented are small boxes. At \$46 per box, this means lost revenue of \$9844. This represents 37% of the alleged \$26,521 that the USPS claims will be saved by the closing of the Clarksville Post Office. The USPS states that revenue has declined from \$80,568 in fiscal year 2008 to \$65,391 in 2010. The lost revenue from post office boxes at Clarksville is therefore 12% of the 2008 revenue and 15% of the 2010 revenue. The USPS did not estimate the lost revenue from box rental in its calculations before making a determination, and now, after the fact, still refuses to do so. Instead, the USPS offers a general statistic that box fees constitute roughly 11% of walk-in revenue for post offices with less than \$100,000 in total walk-in revenue and refers to the fact that there is no revenue loss from "Group E customers" who do not pay for post office box service (USPS Comments, p.15).<sup>3</sup> This generalized statistic should not be used to estimate lost revenue where, as here, the number of boxes is actually known, and the lost revenue should have been calculated as part of the USPS financial review, and could still be easily calculated by the USPS.

The USPS estimated the cost of replacement services by a worksheet (AR Item 17) which appears to be the USPS standard financial analysis. It is unclear whether this

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<sup>3</sup> The USPS Comments do not state how many "Group E" customers there are in Clarksville.

financial analysis is the method included in the recent update of the USPS handbook PO-101 apparently modified in response to the Commission's criticism of past economic analysis.<sup>4</sup> However, the USPS does not respond to the criticisms of its methodology that Petitioners made in their Main Brief.

Petitioners noted that a variety of the numbers contained in the analysis were unexplained (Petitioners' Main Brief, pps.15-16).<sup>5</sup> The USPS comments do not offer any explanation of these numbers. Petitioners questioned the derivation of the USPS estimate that 178 additional boxes would be added to the rural route (out of a total of 214 existing post office boxes at the Clarksville Post Office). Not only is this number unexplained in the record, the USPS did not offer any justification for this number in its Comments, instead noting "while not addressed directly in the record, the number of stops on the rural route is based on the Postal Service's typical experience at a conservative estimate assuming that many customers elect rural service." Again, this "typical experience" is not explained, nor is there any explanation of why this estimate is "conservative."

The USPS also states that "the Postal Service shows that the rural route carrier will not need to add additional miles to the route because any new delivery points can be included in existing lines of rural carrier travel" (Comments, p.16). The USPS shows no such thing. There is nothing in the record to indicate where the existing lines of rural carrier travel are located, or even if they exist at all. There may well be numerous streets and roads which are not presently on any rural carrier route, where all of the residents receive their mail at a post office box in the Clarksville Post Office. The USPS does not

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<sup>4</sup> See Remand Order 974, Innis Post Office, Docket A2011-34, pps.11-12, and n. 15

<sup>5</sup> For example, Petitioners' Main Brief noted that the USPS referred to a "volume factor," calculations of estimated minutes which were not explained. Petitioners focused on the failure to explain two critical issues: the number of boxes and the additional daily miles added to the route, discussed in the text.

offer any justification for its cavalier conclusion that there will be no additional miles added and of course, the inclusion of additional miles would significantly increase the cost of the replacement rural delivery service.

Petitioners note that the Commission recently criticized the USPS for characterizing the cost of replacement rural delivery as “\$0,” and noted “while it is possible that the postal service will incur no additional expense in providing rural delivery service, the Commission believes this is inconsistent with the many other post office closings previously reviewed, and requires an explanation” (Remand Order 982, Munroe Post Office, Docket No. A2011-40, p.10). Here, while the USPS is acknowledging additional labor costs, it is denying that any additional miles will be added to rural routes that allegedly currently exist. The USPS is not offering any explanation as to how these additional stops will not add extra miles.

Finally, the USPS continues to insist that "it was appropriate to use a career employee's salary in the calculation" of cost savings (USPS Comments, p.15). The use of a career employee's salary to calculate the alleged savings is not supported in the record itself, which, as Petitioners' Main Brief notes, simply refers to the possibility that a non-career postmaster relief may be separated from the Postal Service as a result of the closure (AR item 47, p.7) (see Petitioners' Main Brief, p.15). Therefore, the savings that may be realized from the closure may be significantly less than the \$48,569 salary and fringe benefits for one career employee that is included in the USPS estimate.

These three factors added together, the loss of box revenue, the additional cost of rural route carrier service and a corrected amount for the salary that will be allegedly saved, likely exceed the alleged savings of \$26,521. If so, there are no economic savings

to be realized from the closure of the Clarksville Post Office and the closure may actually result in increased costs to the USPS. At the very least, the record is insufficient to demonstrate that any savings will actually be realized.

### **3. The sole reason for the USPS action is the alleged operating deficit of the Clarksville Post Office**

39 U.S.C. § 101(b) prohibits the USPS from closing a post office "solely for operating at a deficit." Petitioners maintain that the only reason offered by the USPS for closing the Clarksville Post Office is the alleged economic savings and that such a reason is legally insufficient to justify the closing of the Post Office. The USPS responds by stating that its decision is based on "a variety of factors." However, the factors stated merely restate the claim that the post office is operating at a deficit.

For example, the USPS maintains and that it can properly consider "workload and revenue... because analysis of workload and revenue does not imply that a small post office is operating at a deficit" (USPS Comments, p.17). Workload and revenue are part and parcel of the question of whether or not the post office is or is not operating at a deficit; if revenue is insufficient to justify workload, the facility is operating at a deficit, by definition.

The "variety of factors" listed on page 16 of the USPS Comments include workload revenue and expected financial savings, which directly relate to whether the post office is operating at a deficit. In addition, the USPS identifies the "postmaster vacancy," "the variety of delivery and retail options," "very little projected growth in the area," "and minimal impact upon the community." Although the postmaster vacancy may

have provided a legal basis for the USPS to initiate its review of the Clarksville Post Office, this vacancy is not, by itself, a reason for the closing of the post office. The USPS does not indicate why and how the “variety of delivery and retail options” justifies the closure of the post office; obviously, the elimination of the post office eliminates the preferred delivery and retail option for the community. Finally, as described above and in Petitioners' Main Brief, the USPS has failed to consider the significant impacts upon the community and does not have any basis in the record for the incorrect conclusion that there will be very little projected growth in Clarksville.

In summary, although the USPS has listed other alleged factors, the only reason which is described in the record is the alleged operating deficit, and closing the Clarksville Post Office solely for operating at a deficit violates the express prohibitions of § 39 U.S.C. §§ 101 (b) and 404 (d) (4).

### Conclusion

For the reasons stated in Petitioners' Main Brief and in their Reply Brief, the determination to close the Clarksville Post Office is arbitrary and capricious, and completely unsupported by any evidence in the record. Petitioners respectfully urge the Postal Regulatory Commission to overturn this decision and remand the matter to the USPS, and direct the USPS to conduct a proper review and analysis before making a determination as to whether or not to close the Clarksville Post Office.

Dated: November 29, 2011  
Clarksville, NY

Respectfully submitted,

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